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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,093	02/17/2004	Christopher S. Weaver	3111.003	9898
37999	7590	05/12/2005	EXAMINER	
DEWITT ROGGIN PLLC 12 E. LAKE DRIVE ANNAPOLIS, MD 21403			GARY, ERIKA A	
			ART UNIT	PAPER NUMBER
			2681	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,093

Applicant(s)

WEAVER ET AL.

Examiner

Erika A. Gary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because figure 1 contains empty boxes with reference numerals. The boxes should also include corresponding text. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: on line 6, "said central computing facility" should be "said computing facility"; on line 9, "said first user

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and second user" should be "said first user and a second user"; and on line 12, "and" should be inserted after "determining;". Appropriate correction is required.

Claim 32 is objected to because of the following informalities: the claim should depend upon claim 31 and not claim 30. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 20 recites the limitation "the first level of notification message" in line 1.

There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "the second level of notification message" in line 1.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-22 and 25-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Albanese, US Patent Application Publication Number 2004/0111360 (hereinafter Albanese).

Regarding claim 1, Albanese discloses a system for matching users by affinity and geographic location comprising: a portable communications terminal associated with a first user; a computing facility connected by a telecommunications link to said portable communications terminal; a location service capable of providing location information regarding said portable communications terminal to said computing facility, means for storing information regarding affinity preferences of said first user, means for determining a match based upon a degree of affinity correlation between said first user and a second user, wherein a minimum degree of affinity correlation constituting a match varies depending on the proximity of said first and second users; and means for generating an alert message when a match is determined by said means for determining; and means for sending said alert message to said portable communications terminal [paragraphs 0072-0074].

Regarding claim 2, Albanese discloses said means for storing stores information regarding affinity preferences of a plurality of users [paragraph 0074].

Regarding claim 3, Albanese discloses said means for storing is located in said computing facility [paragraph 0074].

Regarding claims 4 and 5, Albanese discloses said portable communications terminal comprises a wireless telephone or a portable data terminal [paragraph 0073].

Regarding claim 6, Albanese discloses means for establishing a communications path between said portable communications terminal associated with said first user and a portable communications terminal associated with said second user [paragraph 0074].

Regarding claim 7, Albanese discloses means for storing information regarding security and privacy preferences of said first user; and means for enforcing said security and privacy preferences of said first user [paragraph 0034].

Regarding claim 8, Albanese discloses said enforcing comprises means for said first user to input assent to an exchange of information [paragraph 0034].

Regarding claim 9, Albanese discloses said security and privacy preferences comprise a list of prohibited matches [paragraphs 0034, 0053].

Regarding claim 10, Albanese discloses said security and privacy preferences comprise a list of conditions excluding a particular user from consideration by said means for determining [paragraph 0034, 0053].

Regarding claims 11 and 12, Albanese discloses said conditions comprise at least one or at least two selected from the group of dates, days, times, and geographic locations [paragraphs 0039, 0072, 0074].

Regarding claim 13, Albanese discloses said security and privacy preferences comprise a list of conditions prohibiting said means for sending from sending an alert message to said portable communications terminal [paragraph 0034, 0053].

Regarding claims 14 and 15, Albanese discloses said conditions comprise at least one or at least two selected from the group of dates, days, times, and geographic locations [paragraphs 0039, 0072, 0074].

Regarding claim 16, Albanese discloses means for storing alert messages generated by said means for generating but not sent by said means for sending [paragraph 0039].

Regarding claim 17, Albanese discloses said security and privacy preferences comprise first and second levels of security [paragraphs 0034, 0073].

Regarding claim 18, Albanese discloses said first level of security comprises conditions under which an alert message regarding a match between a first user and a second user may be send to said second user without consent of said first user [paragraph 0034].

Regarding claim 19, Albanese discloses said second level of security comprises conditions under which an alert message regarding a match between a first user and a second user may not be sent to said second user without consent of said first user [paragraphs 0034, 0031].

Regarding claim 20, Albanese discloses a notification message indicating that an affinity match is nearby and providing limited information regarding the matching user [paragraph 0074, 0075].

Regarding claim 21, Albanese discloses a notification message providing sufficient information to permit the second user receiving the message to identity the first user [paragraph 0074].

Regarding claim 22, Albanese discloses said location service maintains in a database a record of all affinity matches and associated communications [paragraphs 0072, 0074].

Regarding claim 25, Albanese discloses means for verifying the identity of a user [paragraph 0073].

Regarding claim 26, Albanese discloses the means for verifying comprises means for checking that the user has subscribed to wireless service at a single, unchanging geographic address for a period of one year or longer [paragraph 0073 (loyalty program)].

Regarding claims 27-29, Albanese discloses said means for verifying comprises examination of a governmentally issued identification document such as a driver's license or passport [paragraphs, 0020, 0073].

Regarding claim 30, Albanese discloses said means for verifying comprises biometric identification means [paragraph 0073].

Regarding claim 31, Albanese discloses a method for matching users by affinity and geographic location comprising the steps of: entering into a memory at least one affinity preference of a first user having a portable communications terminal; entering into a memory at least one affinity preference of a second user; determining a location of said first user; determining a location of a second user; determining a match based upon a degree of affinity correlation between said first and second user, wherein a minimum degree of affinity correlation constituting a match varies depending on the proximity of said first and second users; generating an alert message when a match is determined by said determining a match step; and sending said alert message to a portable communications terminal of at least one of said first and second users [paragraphs 0072-0074].

Regarding claim 32, Albanese discloses the step of determining an identity of at least one of said first and second users [paragraphs 0073, 0074].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanese.

Regarding claims 23 and 24, Albanese does not specifically disclose that the database contains only summary information regarding each message or only complete copies of each message. However, the Examiner takes Official Notice that it is well known in the art for databases to save information in varying formats including saving limited information to conserve memory or saving all information when memory conservation is not an issue. It would have been obvious to one of ordinary skill in the art to include these features depending on how much information is desired to be retained.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Demello et al., US Patent Application Publication Number 2001/0036224 disclose delivery of targeted data over wireless networks.

Eldering et al., US Patent Application Publication Number 2002/0111154, disclose location-based delivery.

Brescia, US Patent Application Publication Number 2003/0006912, discloses location and event triggered notification services.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EAG
May 5, 2005


ERIKA A. GARY
PRIMARY EXAMINER